

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Louis J. Walters, Notice )	Case No. 15-1552-TR-CVF (OH3225006219D)
of Apparent Violation and Intent to )	
Assess Forfeiture. )	

ENTRY

The Commission finds:

- (1) R.C. 4923.04 provides that the Commission shall adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce. Pursuant to Ohio Adm.Code 4901:2-5-03(A), the Commission adopted the Federal Motor Carrier Safety Regulations for the purpose of governing transportation by motor vehicle in the state of Ohio. Further, R.C. 4923.99 authorizes the Commission to assess a civil forfeiture of up to \$25,000 per day against any person who violates the safety rules adopted by the Commission.
- (2) On May 4, 2015, a commercial motor vehicle (CMV) driven by Louis J. Walters (Respondent) and operated by Clean Textiles Systems was inspected within the state of Ohio. As a result of the inspection, Respondent was issued a Driver/Vehicle Examination Report, citing him for failing to use a seat belt while operating a CMV, in violation of 49 C.F.R. 392.16.
- (3) Respondent was timely served with a notice of preliminary determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, at his address registered with the Commission. The NPD assessed Respondent a civil forfeiture of \$100.
- (4) On September 2, 2015, Respondent filed a request for an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.

- (5) By Entry dated September 8, 2015, a prehearing conference was scheduled for October 5, 2015. A copy of the Entry was served upon Respondent at his address registered with the Commission. The prehearing conference was held as scheduled; however, the parties were unable to settle this matter.
- (6) Thereafter, by Entry dated October 6, 2015, the attorney examiner scheduled this matter for hearing on December 1, 2015. A copy of the Entry was served upon Respondent at his address registered with the Commission.
- (7) On November 30, 2015, Respondent filed correspondence noting his intent to pay the civil forfeiture assessed by Staff, in lieu of appearing for the hearing on December 1, 2015.
- (8) By Entry issued November 30, 2015, the attorney examiner found that, in light of Respondent's intent to pay the civil forfeiture, the hearing, if needed, should be continued to a date to be set by subsequent entry. A copy of the Entry was served upon Respondent at his address registered with the Commission.
- (9) On December 22, 2015, the attorney examiner issued an Entry noting that Respondent had not paid the civil forfeiture assessed by Staff. The attorney examiner, therefore, rescheduled this matter for hearing on January 21, 2016. A copy of the Entry was served upon Respondent at his address registered with the Commission.
- (10) The hearing was held, as rescheduled, on January 21, 2016; however, Respondent failed to appear for the hearing or present evidence to explain why he should not be charged with the violation in this case. At the hearing, Staff presented, as exhibits, the NPD issued to Respondent (Staff Ex. 1) and the Driver/Vehicle Examination Report (Staff Ex. 2). Additionally, at the hearing, Staff moved for a default judgment against Respondent, in the amount of \$100 (Tr. at 5-6; Staff Ex. 1).

- (11) Ohio Adm.Code 4901:2-7-14(E) provides that a respondent who has requested an administrative hearing and fails to appear for the hearing shall be in default. The rule also states that a respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability for the forfeiture proposed in the NPD.
- (12) In view of Respondent's failure to appear for the hearing, the Commission finds that Respondent is in default pursuant to Ohio Adm.Code 4901:2-7-14(E). Accordingly, Staff's motion for default judgment should be granted and the recommended civil forfeiture of \$100 should be paid by Respondent within 60 days.
- (13) Pursuant to R.C. 4923.99, Respondent is liable to the state of Ohio for payment of the assessed civil forfeiture for the violation in this matter. Ohio Adm.Code 4901:2-7-22 provides that payment of such forfeitures shall be made by certified check or money order made payable to: "Treasurer, State of Ohio" and shall be mailed or delivered to: "Fiscal Division, Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793." Respondent should write the case number (OH3225006219D) on the front of the check or money order and shall have 60 days from the date of this Entry to pay the assessed forfeiture.
- (14) Pursuant to R.C. 4923.99, if payment is not received within 60 days of the date of this Entry, the Attorney General should bring a civil action in the Court of Common Pleas of Franklin County to recover the assessed forfeiture.

It is, therefore,

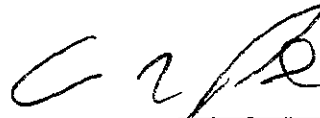
ORDERED, That Staff's motion for default judgment be granted. It is, further,

ORDERED, That Respondent pay the assessed civil forfeiture of \$100 within 60 days to the state of Ohio, in accordance with finding (13). It is, further,

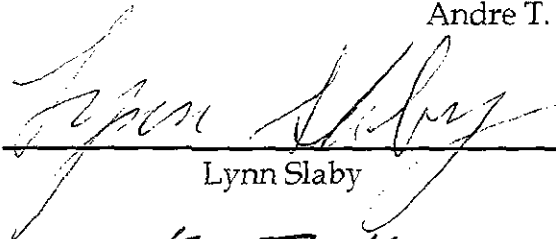
ORDERED, That if payment is not received within 60 days of the date of this Entry, the Attorney General shall bring a civil action in the Court of Common Pleas of Franklin County, or take any other appropriate action allowed by law, to recover the assessed forfeiture. It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record.

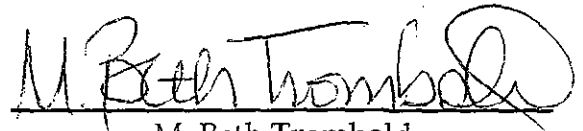
THE PUBLIC UTILITIES COMMISSION OF OHIO



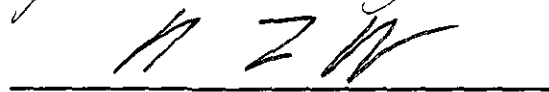
Andre T. Porter, Chairman



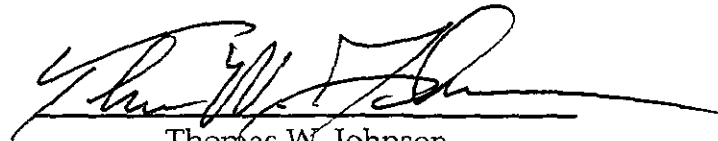
Lynn Slaby



M. Beth Trombold



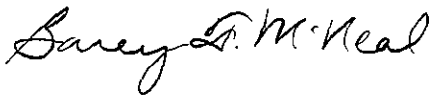
Asim Z. Haque



Thomas W. Johnson

SJP/sc

Entered in the Journal **FEB 10 2016**



Barcy F. McNeal  
Secretary